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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

The National Trust for Historic
Preservation, et al.,

Plaintiffs,

vs.

Debra Haaland, in her official capacity
as Secretary of the Interior, et al.,

Federal Defendants,

and

State of Arizona,

Intervenor Defendant.

No. CV-19-5008-PHX-MHB

**STIPULATED
SETTLEMENT
AGREEMENT**

Plaintiffs, National Trust for Historic Preservation, Wilderness Society,
and Sierra Club, and Federal Defendants, Debra Haaland in her official
capacity as Secretary of the Interior, the United States Department of the
Interior, Raymond Suazo in his official capacity as Arizona State Director of
the Bureau of Land Management, and the United States Bureau of Land
Management (“BLM”) (collectively “the Parties”) hereby enter into this
Settlement Agreement for the purpose of resolving this lawsuit without
further judicial proceedings. The Parties hereby state as follows:

WHEREAS, on March 5, 2018, BLM issued a Record of Decision
approving the Sonoran Desert National Monument (“the Monument”) Target
Shooting Resource Management Plan Amendment (“RMPA”) which identified
approximately 435,700 acres of public lands as available to dispersed
recreational target shooting (“target shooting”);

1 WHEREAS, on August 22, 2019, Plaintiffs filed a Complaint for
2 Declaratory and Injunctive Relief against the Federal Defendants alleging
3 that the RMPA failed to include adequate measures to protect Monument
4 objects, in violation of the Federal Land Policy and Management Act
5 (“FLPMA”) and Presidential Proclamation 7397 establishing the Monument;
6 that BLM failed to make a reasonable and good faith effort to identify historic
7 properties within the Monument in violation of the National Historic
8 Preservation Act (“NHPA”); that BLM’s “no adverse effect” determination is
9 arbitrary and capricious in violation of the Administrative Procedure Act
10 (“APA”) and NHPA; and that BLM failed to analyze the decision’s impacts to
11 Monument objects and the effectiveness of corresponding mitigation
12 measures in violation of the National Environmental Policy Act (“NEPA”);

13 WHEREAS, on December 22, 2020 Plaintiffs filed a motion for
14 summary judgment (Doc. 65) and memorandum in support (Doc. 65-1) in this
15 case;

16 WHEREAS, following Plaintiffs’ summary judgment filing, the Parties
17 entered into negotiations for the following settlement to conserve BLM and
18 judicial resources and resolve this lawsuit without further litigation; and

19 WHEREAS, the Parties, through their authorized representatives, and
20 without any admission or adjudication of the issues of fact or law, have
21 reached a settlement resolving the claims in this case;

22 THEREFORE, the Parties enter this Settlement Agreement
23 (“Agreement”), and stipulate as follows:

24 **A. Effective Date of the Agreement**

- 25
- 26 1. The terms of this Agreement shall become effective upon entry of
27 an Order by the Court approving the Agreement.
28

B. The Monument Resource Management Plan Land Use Planning Process and “Settlement Alternative”

2. BLM agrees to undertake a new land use planning process to consider amending the Monument Resource Management Plan (“RMP”). The new land use planning process will reconsider where and whether target shooting should be allowed inside the Monument and associated management actions. BLM will undertake and complete the land use planning process in accordance with FLPMA and any other applicable statutes and regulations, and will issue a new decision to amend or decline to amend the RMP.
3. BLM agrees to issue the new decision contemplated by Paragraph 2 within 18 months of the Court’s order approving this Agreement. BLM may obtain a one-time, six-month extension of this timeline by consent of the parties or by motion upon a show of good cause, which includes, but is not limited to, events outside the control of the BLM.
4. As part of the land use planning process outlined in Paragraph 2, BLM agrees to analyze in detail an alternative (the “Settlement Alternative”) that includes the following elements¹:
 - i. Designated wilderness and lands with wilderness characteristics that are managed to protect those characteristics under the current RMPA would be unavailable for target shooting.
 - ii. The area where the Komatke Trail is suspected to exist in the northwest area of the Monument, and an additional 0.5-mile buffer on the north side of the suspected location of the trail, would be unavailable to target shooting unless, prior to completion of the land use planning process, additional field work demonstrates the nonexistence of the trail, in which case the decision whether to allow target shooting in the area would be determined through a suitability analysis as discussed in Paragraph 4(v).

¹ This proposal is visually depicted on the attached map. See Exhibit A.

1 iii. The area south of Highway 238 from the western
2 edge of the Monument boundary to the western edge of the
3 South Maricopa Mountains Wilderness area boundary, and
4 the area south of I-8 and west of the Table Top Wilderness,
5 known as the Vekol Valley, would be unavailable to target
6 shooting.

7 iv. The portion of the Monument that used to be part of
8 the Barry M. Goldwater Air Force Range before it was
9 reconveyed to the BLM (known as "Area A") would be
10 unavailable to target shooting.

11 v. All areas not designated closed and unavailable to
12 target shooting would be available for target shooting
13 unless BLM's suitability analysis, which will inform the
14 land use planning process, determines that: (1) Monument
15 objects are located in the area and (2) target shooting is
16 inconsistent with those objects' proper care and
17 management.

18 vi. A mitigation and monitoring protocol designed to
19 protect the Monument's objects will apply to those areas of
20 the Monument where target shooting is allowed.

21 5. Pending adoption of a new decision, the current RMPA would
22 remain in effect.

23 **C. Dismissal of Case and Agreement Not to Sue**

24 6. The Parties agree that they will submit to the Court the
25 accompanying joint motion seeking approval of the Agreement
26 and dismissal of this case with prejudice in accord with Federal
27 Rule of Civil Procedure 41. The Court shall retain jurisdiction
28 solely for the purpose of enforcing the commitments in Paragraph
29 3. The Court's jurisdiction shall continue no later than
30 completion of the planning process identified in Paragraph 2.

31 7. Plaintiffs agree that if BLM issues a decision approving a land
32 use plan amendment that adopts the Settlement Alternative
33 (described above) and as depicted in Exhibit A (map of the
34 Settlement Alternative), they will not pursue, to the extent
35 applicable, an administrative protest, petition for state director

1 review, appeal to the Interior Board of Land Appeals (“IBLA”), or
2 judicial challenge to (1) the decision, or (2) any approved resource
3 management plan amendment that complies with the Settlement
4 Alternative (described above) and as depicted in Exhibit A (map
of Settlement Alternative).

5 8. Plaintiffs further agree that if BLM issues a decision approving a
6 land use plan amendment concerning target shooting that adopts
7 the Settlement Alternative, they will not fund any other entity or
8 person not a party to this Agreement to commence an
9 administrative protest, petition for state review, or IBLA appeal
or judicial challenge that would be barred by this Agreement if
brought by Plaintiffs.

10 9. The Parties acknowledge that nothing in this Agreement limits
11 or otherwise affects BLM’s discretion to adopt the land use plan
12 amendment of its choice among the alternatives (or a
13 combination of the alternatives) analyzed.

14 10. The Parties acknowledge that nothing in this Agreement limits
15 Plaintiffs’ right to challenge BLM’s final decision—in a separate
16 administrative or judicial action challenging the validity of
17 BLM’s decision under the judicial review provisions of the
18 Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706—if
BLM does not adopt the Settlement Alternative.

19 **D. Additional Terms**

20 11. In the event of a dispute arising out of or relating to this
21 Agreement, or if any of the Parties believes another Party has
22 breached its obligations under this Agreement, the Party raising
23 the dispute or alleging breach shall provide the other Parties
24 written notice and a reasonable opportunity to resolve the
25 dispute or cure the alleged breach. The Parties agree that they
26 will meet and confer (either telephonically or in person) within 30
27 days of being notified of a dispute in a good faith effort to resolve
28 any disputes or alleged breaches. As noted in Paragraph 6 above,
the Court shall retain jurisdiction solely for the purpose of
enforcing the commitments in Paragraph 3. The Parties agree,
however, that no Party shall be subject to any claim for money
damages as a result of a breach of this Agreement and that
contempt of court as a remedy for any alleged breach of this
Agreement will not be sought in this case. The Parties further

1 agree that the obligations are not enforceable through a judicial
2 action for breach of contract, and that any challenge to the
3 sufficiency of the new decision, including the BLM's compliance
4 with the obligations set forth in Paragraph 4, may be brought
5 only in a separate administrative or judicial action challenging
6 the validity of BLM's decision regarding a land use plan
7 amendment concerning target shooting under the judicial review
8 provisions of the Administrative Procedure Act ("APA"), 5 U.S.C.
9 §§ 701-706.

- 10
- 11 12. This Agreement was negotiated for the purposes of avoiding
12 future litigation. Nothing in this Agreement shall be construed or
13 offered as evidence in any proceeding as an admission or
14 concession of any wrongdoing, liability, or any issue of fact or law
15 concerning the claims settled under this Agreement or any
16 similar claims brought in the future by any other party. Except
17 as expressly provided in this Agreement, none of the parties
18 waives or relinquishes any legal rights, claims, or defenses it may
19 have.
- 20
- 21 13. No part of this Agreement shall have precedential value in any
22 litigation or in representations before any court or forum or in
23 any public setting. This Agreement is executed for the purpose of
24 settling Plaintiffs' Complaint, and nothing herein shall be
25 construed as precedent having preclusive effect in any other
26 context.
- 27
- 28 14. Without waiving any defenses or making any admissions of fact
or law, Federal Defendants agree to pay Plaintiffs \$110,000 to
settle Plaintiffs' claim for attorneys' fees, costs, and expenses.
Plaintiffs agree to accept the \$110,000 from Federal Defendants
in full satisfaction of any and all claims, demands, rights, and
causes of action for any and all attorneys' fees, costs, and
expenses Plaintiffs reasonably incurred in connection with this
litigation through the signing of this Agreement. The United
States may offset the payment amount to account for any
delinquent debts owed by the Payee(s) to the United States
pursuant to 31 U.S.C. §§ 3711, 3716. By this Agreement, Federal
Defendants do not waive any right to contest fees, costs, or
expenses claimed by Plaintiffs or Plaintiffs' counsel in any future
litigation or continuation of the present action. Within fourteen
(14) days after the effective date of this Agreement, Plaintiffs'
counsel will provide the following information necessary for

1 Federal Defendants to process the disbursement: the payee's
2 address, the payee's bank account number, the account type, the
3 name of the payee's bank, the bank routing transit number, and
4 the payee's tax identification number. Federal Defendants agree
5 to submit all necessary paperwork for the processing of the
6 attorneys' fees award within fourteen (14) days from receipt of
the necessary information from the Plaintiffs or from the
dismissal of the lawsuit, whichever is later.

- 7 15. So long as the payee receives payment from Federal Defendants,
8 as provided in Paragraph 14, Plaintiffs and their counsel,
9 assigns, executors, and administrators agree to forever release,
10 abandon, waive, and discharge the United States and Federal
11 Defendants from any and all claims, demands, damages, causes
of action or suits at law or equity to recover fees, costs, or
expenses in any way related to this litigation.
- 12 16. Nothing in this Agreement shall be interpreted as, or shall
13 constitute, a requirement that Federal Defendants are obligated
14 to pay any funds exceeding those available or take any action in
15 contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any
other applicable appropriations law.
- 16 17. The Parties agree that this Agreement was negotiated in good
17 faith and that it constitutes a settlement of claims that were
18 disputed by the Parties. This Agreement contains all the terms
19 of agreement between the Parties concerning the Complaint, and
20 is intended to be the final and sole agreement between the
21 Parties with respect thereto. The Parties agree that any prior or
22 contemporaneous representations or understanding not explicitly
contained in this written Agreement, whether written or oral, are
of no further legal or equitable force or effect.
- 23 18. The undersigned representatives of each party certify that they
24 are fully authorized by the party or parties they represent to
25 agree to the terms and conditions of this Agreement and do
26 hereby agree to the terms herein. Further, each party, by and
27 through its undersigned representative, represents and warrants
28 that it has the legal power and authority to enter into this
Agreement and bind itself to the terms and conditions contained
in this Agreement.

1
2 Date Signed: April 14, 2022

3 PARTY REPRESENTATIVES SIGNATURES

4 TODD KIM
5 Assistant Attorney General
6 Environment & Natural Resources
7 Division

8 /s/ Leilani Doktor
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